

ENVIRONMENTAL ASSESSMENT
(AZ-020-2005-0037)

I. INTRODUCTION: Mr. Gerald L. Elliott (applicant) has made application for a right-of-way (BLM serial number AZA-32898) to construct a new road across public land to provide access to his private property.

II. LOCATION OF THE PROJECT: The project is located near New River, Arizona. The legal description of the project area is as follows:

Gila and Salt River Meridian, Arizona,
T. 7 N., R. 2 E.,
sec. 27, lot 50.

A Topographic Land Status Location Map labeled *Exhibit A* is attached.

III. CONFORMANCE WITH APPLICABLE LAND USE PLAN: The proposed action is within the area analyzed by the Phoenix Resource Management Plan (RMP) and Environmental Impact Statement. (1) The date of approval was September 29, 1989. This plan has been reviewed to determine if the proposed action conforms with the land use plan terms and conditions as required by 43 CFR 1610.5. The proposed action is in conformance with the Phoenix RMP. According to the RMP: *"Land use authorizations (rights-of-way, leases, permits, easements) would continue to be issued on a case-by-case basis and in accordance with recommendations in this Proposed RMP/Final EIS."* (page 14)

IV. APPLICABLE LAWS, REGULATIONS, AND POLICY: The project proposal qualifies as a right-of-way and is permitted to be authorized by authority of the Federal Land Policy and Management Act of 1976 (P.L. 94-579). Applicable regulations for the proposed action, under this authority, are contained within Title 43 Code of Federal Regulations (CFR), part 2800.

V. NEED FOR THE PROPOSED ACTION: The right-of-way is needed for the applicant to have legal and physical access to his private property.

VI. DESCRIPTION OF THE PROPOSED ACTION: The proposed action is to grant a right-of-way to Mr. Gerald L. Elliott (applicant) to allow the construction of a new paved road across public land.

The right-of-way would authorize the construction, operation, maintenance, and termination of a paved road. The applicant plans for approximately one week to construct the road. It would be authorized for a 200 foot length and a 40 foot width. This would equate to approximately 0.18 acres, more or less, of right-of-way encumbrance on the subject public land parcel. The right-of-way would be authorized for a 30-year term, with the right of renewal upon expiration.

The right-of-way would provide access (both legal and physical) to private property (parcel number 202-12-027A) that the applicant owns and is proposing to use for a site to construct storage units and operate a business, called Neighborhood Storage. The proposed road across public land, therefore, would be used by the applicant, as well as the customers that use the storage units, for access in and out of the business. The applicant anticipates approximately 6 cars per day to use the road.

Access to the proposed road right-of-way would occur directly from the Interstate-17 Frontage Road (Frontage Road). This Frontage Road is authorized by right-of-way to Maricopa County Department of Transportation (MCDOT) under right-of-way case PHX-83267. There is an existing driveway, as shown on the attached Aerial Overview Map labeled *Exhibit B*, that the applicant will use to build the proposed road from.

VII. DESCRIPTION OF THE NO-ACTION ALTERNATIVE: The no-action alternative was considered as an alternative. This alternative would involve rejecting the application for the road right-of-way. This would require the applicant to obtain access from the private landowners to the north or south of his parcel. The applicant would have to consider negotiating with these landowners, or potentially with BLM, on a different route for the road.

VIII. AFFECTED ENVIRONMENT:

A. DESCRIPTION OF OVERALL ENVIRONMENT: The proposed action is located on public land near New River, Arizona. It is near the New River/I-17 Interchange.

B. RESOURCE SPECIFIC ENVIRONMENT - BLM CRITICAL ELEMENTS: The following elements of the human environment are required to be addressed, at a minimum, in the preparation of environmental assessment documents. This is according to various executive orders and agency requirements:

1. Air Quality (*The Clean Air Act of 1955, as amended*): The air quality has not been measured for the area where this proposal is located. From a review of the project area and surrounding area, there are no air polluting emissions being created from construction, factories, or any major project or facility. Vehicular traffic along I-17 and the Frontage Road contribute to carbon monoxide emissions in the area.

2. Areas of Critical Environmental Concern (ACEC) (*Federal Land Policy and Management Act of 1976*): There are no designated ACEC's within the BLM project area limits.

3. Cultural Resources (*National Historic Preservation Act of 1966, as amended*): The proposed right-of-way area was surveyed on March 2, 2005. A single isolated artifact was observed.

4. Environmental Justice (*Executive Order 12898*): According to Executive Order 12898 of February 11, 1994, all Federal actions must address and identify as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.

5. Farmland, Prime/Unique (*Surface Mining Control and Reclamation Act of 1977*): There are not prime or unique farmlands within the BLM project area limits.

6. Floodplains (*Executive Order 11988*): Executive Order 11988, issued May 24, 1977, established responsibilities for Federal agencies in the management of floodplains. This order requires that each agency shall provide leadership and take action to: 1) minimize adverse impacts associated with the occupancy and modification of flood plains and reduce risks of flood loss, 2) minimize impacts of floods on human safety, health, and welfare, and 3) restore and preserve the natural and beneficial values served by floodplains. The Executive Order defines floodplain to mean the lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of off shore islands, including at a minimum, that area subject to a one percent or great chance of flooding in any given year. There are not floodplains within the BLM project area limits. Please refer to the attached Floodplain Maps, labeled *Exhibit C*, pages 1 and 2, that show this. (2)

7. Invasive/Non-native Plants (Weeds) (*Federal Noxious Weed Act*): The Federal Noxious Weed Act, Public Law 93-629 (7 U.S.C. 2801 et seq.; 88 Stat. 2148), enacted January 3, 1975,

established a Federal program to control the spread of noxious weeds. Executive Order 13112 issued February 3, 1999 further defines the responsibilities of Federal agencies to prevent the introduction of invasive species and provide for their control by minimizing the economic, ecological and human health impacts that invasive species cause. There are not invasive/non-native plants (weeds) within the project area limits.

8. Native American Religious Concerns (*American Indian Religious Freedom Act of 1978*): Please refer to the "*Cultural Resources*" segment on page 2.

9. Threatened and Endangered (T&E) Species (*Endangered Species Act of 1973, as amended*): There are no records of, nor suitable habitat for, any listed threatened, endangered, proposed or candidate plant or wildlife species in the vicinity of the project area.

10. Wastes, Hazardous/Solid (*Resource Conservation and Recovery Act of 1976, and Comprehensive Environmental Response, Compensation, and Liability Act of 1980*): There are no hazardous or solid wastes within the BLM project area. Hazardous or solid wastes will not be used as part of the project proposal.

11. Water Quality (*Safe Drinking Water Act of 1974, as amended and Clean Water Act of 1977*): Water quality was not measured for the proposed project.

12. Wetlands/Riparian (*Executive Order 11990*): Executive Order 11990 of May 24, 1977 requires each agency to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. There are not wetlands or riparian areas within the BLM project area limits.

13. Wild & Scenic Rivers (*Wild and Scenic Rivers Act of 1968, as amended*): There are not wild and scenic rivers within the BLM project area limits. The electric line does not cross any wild and scenic rivers.

14. Wilderness (*Federal Land Policy and Management Act of 1976 and Wilderness Act of 1964*): According to the Wilderness Act of September 3, 1964 (Public Law 88-577) there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area. There are no designated wilderness areas within the BLM project area limits.

C. RESOURCE SPECIFIC ENVIRONMENT - OTHER RESOURCE ELEMENTS:

1. Lands, Realty, and Energy: Road right-of-way PHX-83267, authorized to MCDOT, will be used for access to the proposed road. MCDOT was notified of the proposed action and afforded the opportunity to comment.

2. Migratory Birds: Under the Migratory Bird Treaty Act of 1918 and subsequent amendments (16 U.S.C. 703-711), it is unlawful to take, kill, or possess migratory birds. Executive Order 13186 issued January 11, 2001 further defines the responsibilities of Federal Agencies to protect migratory birds; a list of those protected birds can be found in 50 C.F.R. 10.13. The issuance of a right-of-way for this project would require the proponent to comply with the

Migratory Bird Treaty Act and avoid potential impacts to those listed birds.

3. Mineral Actions: There are no active mining claims on the project area.

4. Recreation: There are no permitted recreation uses of the public land parcels. It is anticipated that visitation is limited as a result of access.

5. Soils, Vegetation, and Wildlife: The environment where the proposed action is located is near the New River floodplain and is flat terrain in the Sonoran Desertscrub, Arizona Upland Subdivision (number 154.12 on the map) of the Desertscrub Formation Biotic Community (3).

6. Visual Resources: A new road will be constructed where a road did not exist before.

IX. ENVIRONMENTAL IMPACTS:

It has been determined by BLM, PFO Resource Specialists that the following elements of the human environment (both critical elements and other resource elements) will not be impacted by the Proposed Action, nor the No-Action Alternative, because they either are not present or by evaluation it has been determined they will not be impacted.

Critical Elements

Areas of Critical Environmental Concern: Not present.

Cultural Resources: The proposed right-of-way will not adversely impact cultural resources.

Environmental Justice: There will be no adverse impact on minority populations and/or low income populations in the United States.

Farmlands (Prime/Unique): Not present.

Floodplains: Not present.

Invasive/Non-Native Plants (Weeds): Not present.

Native American Religious Concerns: See comment for "Cultural Resources" segment above.

Threatened and Endangered Species: The proposal would have no effect on any listed threatened, endangered, proposed or candidate species.

Wastes (Hazardous/Solid): Not present and not part of the project proposal.

Water Quality: No impacts to water quality are anticipated.

Wetlands/Riparian: Not present.

Wild and Scenic Rivers: Not present.

Wilderness: Not present.

Other Resource Elements

Lands/Realty and Energy: MCDOT provided comments on the Proposed Action. They have provided the following input:

- * The driveway location (as depicted on the aerial photograph provided by our office to them) does not appear to cause conflict with any other existing driveway.
- * Plan review and permit issuance is required for the portion of the driveway within I -17 frontage road right-of-way prior to the start of construction. I -17 frontage road right-of-way is 100' (50' each side of road centerline).
- * Driveways shall be paved within the I -17 frontage road right-of-way. Future maintenance of the driveway will not be provided by MCDOT.

These recommendations (specifically those that are identified by the second and third star) will be carried forward appropriately into the terms and conditions of the right-of-way grant.

There will be no direct or indirect adverse impact on energy development, production, supply and/or distribution. A Statement of Adverse Energy Impact will not be prepared.

Migratory Birds: No impacts are anticipated.

Mineral Actions: Not present.

A. PROPOSED ACTION: The following elements of the human environment may be impacted by the proposed action.

1. Air Quality: In general the impacts associated with air quality on the public land are anticipated to be minor, temporary and short term in nature. Increased emissions of Particulate Matter (PM₁₀) will likely occur as a result of soil disturbance associated with vegetation removal, construction activities, and movement of construction equipment. However, the use of water during construction activities and the subsequent application of acceptable soil stabilizing techniques could reduce the potential emissions. A localized increase in emissions of Carbon Monoxide (CO) will also likely occur from construction equipment utilized during construction. A short-term slight increase in CO emissions may be expected due to increased vehicle traffic during construction. Once construction is complete, there are no anticipated impacts on air quality due to operation and maintenance of the road on the public land. Travel and driving that occurs on the road are not anticipated to cause air quality disturbance because of the road being paved.

2. Soils, Vegetation, and Wildlife: Nominal disturbance within the right-of-way could result in the form of soils being pushed over, vegetation being crushed or removed, and wildlife being temporarily disturbed and selecting to avoid the area with activity occurring. Impacts to vegetation and wildlife populations in the area would be minimal. Individual wildlife species will avoid the area during construction activities. Road mortality could increase after paving occurs due to increased traffic volume and speeds.

3. Visual Resources: A new road will be visible where one did not exist before. The impacts associated with this are anticipated to be nominal. The terrain is flat and the road proposal will be level with the terrain.

B. NO-ACTION ALTERNATIVE: The same impacts are anticipated for **Air Quality, Soils,**

Vegetation, and Wildlife, and Visual Resources, if the project was located on other (private) land, in terms of the construction that would occur. Any other route across public land would most likely generate the same impacts to **Air Quality, Soils, Vegetation, and Wildlife, and Visual Resources**, and they would be similar to those described for the proposed action.

X. CUMULATIVE IMPACTS:

A. PROPOSED ACTION: There are no cumulative impacts anticipated on the public land as a result of implementation of the proposed action. The proposed action would allow the use of the public land for a road right-of-way that will provide legal and physical access to private property. It is reasonable to predict that the past actions, combined with this present action, and reasonably foreseeable future actions, will not have cumulative impacts on the public land in this area.

B. NO-ACTION ALTERNATIVE: The no-action alternative would require the applicant to select another route for access to the parcel. Assuming the applicant selects a route that is not located on public land, there will be no cumulative impacts on the public land resources. If the route was on public land, this could result in additional impacts to the public land if a separate road were constructed. This would require the preparation of a separate environmental assessment document.

XI. DESCRIPTION OF MITIGATION MEASURES: The following describes the mitigation measures that are applicable to the proposed action:

1. Air Quality: To minimize the impacts to the air quality of the area, the applicant should be required to use water or other acceptable soil stabilization technique during construction activities to reduce the potential emissions. The applicant should be required to adhere to all applicable air quality rules and regulations.

2. Soils, Vegetation, and Wildlife: The holder of the right-of-way should make reasonable efforts to minimize disturbance to soils, vegetation, and wildlife when they are performing construction, operation, maintenance or inspections, and termination activities on this road.

The holder should minimize vegetative clearing associated with road construction. The plants that are removed during the course of maintenance activities should not remain on BLM managed public land. The holders should dispose of these plants in an appropriate and legal off-site location. Upon the completion of maintenance activities that disturb the surface, the land should be left in as near as its existing condition as possible, with areas smoothed and contoured and left clean.

The holder should incorporate erosion control measures into road design to reduce downstream sedimentation.

3. Visual Resources: The holder shall limit disturbance to the width of the right-of-way.

The stipulations that would be carried forward to the right-of-way grant terms and conditions are attached as *Exhibit D*. These include stipulations formulated for the above-described mitigation measures.

XII. RESIDUAL IMPACTS: There are no significant residual impacts associated with implementation of the proposed action.

XIII. PERSONS AND AGENCIES CONSULTED:

- ? Mr. Gerald L. Elliott, Applicant
- ? Maricopa County Department of Transportation

? BLM, PFO Specialists (Mr. Jim Andersen, Team Lead for Lands and Realty; Ms. Myrna Galaz, Realty Specialist; Mr. Jeff Garrett, Team Lead for Minerals; Mr. Rich Hanson, Team Lead for Archaeology, Recreation, and Wilderness; Mr. Lee Higgins, Team Lead for Rangeland Health; Ms. Cristen Jester, Wildlife Biologist; Mr. Dave Scarbrough, Planning & Environmental Coordinator, Ms. Connie Stone, Archaeologist)

XIV. LIST OF REFERENCES:

- 1) Phoenix Resource Management Plan and Environmental Impact Statement, Approved 09/09/1989.
- 2) Maricopa County GIS Portal, accessed March 7, 2005,
http://www.maricopa.gov/assessor/gisPortal/gis_portal.asp (click on "Floodplain Maps")
- 3) Brown and Lowe, Biotic Communities, Southwestern United States and Northwestern Mexico, 1994, Map.

XV. PREPARER'S AND REVIEWER'S SIGNATURE

Prepared by: ___/s/ Myrna Galaz_____ Date: ___05/04/2005_____

Myrna Galaz, Realty Specialist
BLM, Phoenix Field Office

Reviewed by: ___/s/ Jim Andersen_____ Date: ___05/04/2005_____

Jim Andersen, Team Lead for Lands and Realty
BLM, Phoenix Field Office

FINDING OF NO SIGNIFICANT IMPACT and DECISION RECORD

for

Neighborhood Storage/Elliott - Proposed Road Right-of-Way

Environmental Assessment: AZ-020-2005-0037

(BLM Case: AZA-32898)

I. FINDING OF NO SIGNIFICANT IMPACT (FONSI):

OVERVIEW OF ALTERNATIVES:

- Proposed Action Alternative: Mr. Gerald L. Elliott requests to obtain a right-of-way authorization for construction of a new road on public land near New River, Arizona. The purpose is to obtain access (legal and physical) across public land to his private land. He plans to build storage facilities to operate a business (Neighborhood Storage) on the private land that will be accessed by the proposed road right-of-way. The right-of-way is proposed to be 200 feet long and 40 feet wide, and will encumber approximately 0.18 acres of public land. The right-of-way would allow the construction, operation, maintenance, and termination activities of a paved road for a 30-year period, with the right of renewal upon expiration.
- No-Action Alternative: Selection of this alternative would deny the application request made by Mr. Gerald L. Elliott. This would require the road to be built in a different location, either on public or private land.

STATEMENT OF NO SIGNIFICANT IMPACT: I have reviewed the Environmental Assessment (EA: AZ-020-2005-0037) including the explanation and resolution of any significant environmental impacts. I have determined that the Proposed Action, with mitigating measures described in the environmental assessment, will not have any significant impacts on the human environment and that an Environmental Impact Statement (EIS) is not required. I have determined that the Proposed Action is in conformance with the approved land use plan.

RATIONALE FOR NO SIGNIFICANT IMPACT FINDING: The following are rationale that applies to the finding of no significant impact.

- 1) Through the analysis conducted in the environmental assessment, it is clear there are no impacts on the following critical elements: Areas of Critical Environmental Concern, Cultural Resources, Environmental Justice, Farmlands (Prime, Unique) Floodplains, Invasive/Non-native Plants (Weeds), Native American Religious Concerns, Threatened and Endangered Species, Wastes, Hazardous/Solid, Wetlands/Riparian, Wild and Scenic Rivers, or Wilderness.
- 2) Air quality, soils, vegetation, and wildlife will not be significantly impacted.
- 3) There will be no direct or indirect adverse impact on energy development, production, supply and/or distribution. A Statement of Adverse Energy Impact will not be prepared.
- 4) Cumulative impacts that relate to this project are not expected to be significant.
- 5) Residual impacts that relate to this project are not significant.
- 6) The proposal has been evaluated in terms of context and intensity as per the criteria set forth in 43 CFR 1508.27.

II. DECISION RECORD: It is my decision to implement the proposed action associated with this environmental assessment (AZ-020-2005-0037) as the preferred alternative and authorize a right-of-way to Mr. Gerald L. Elliott for a paved road. The right-of-way will be 200 feet long and 40 feet wide. The public land that will be encumbered by this right-of-way is 0.18 acres, more or less. No surface

term, with the right of renewal upon expiration.

The no-action alternative was not chosen because it does not present a reasonable alternative, given the nature of the proposed action and the analysis conducted in the environmental assessment.

It is my decision to adopt all of the mitigation measures described in the environmental assessment. These will be incorporated into the terms and conditions of the right-of-way grant as stipulations. The stipulations that are attached to the environmental assessment as *Exhibit D* shall be made part of the right-of-way terms and conditions.

Rationale for the Decision: This decision is in conformance with the approved land use plan. According to a resource review made of the project, there will be no significant impact to any of the critical elements listed in the environmental assessment, nor on any other resource element. The project will not cause unnecessary nor undue degradation to the public land. Implementation of this decision will not cause, nor will it add to adverse cumulative impacts on the public land.

/s/ Ralph Costa
for Field Manager, Phoenix Field Office

Date: 05/05/2005